

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5096 of 1984

with

SPECIAL CIVIL APPLICATION NO. 5097 of 1984

with

SPECIAL CIVIL APPLICATION NO. 5098 of 1984

with

SPECIAL CIVIL APPLICATION NO. 5099 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MUNDANA JUTH BATATA SHAKBHAJI UGDANARAONI PACHHAT

VAGRA CO-OPERATIVE SOCIETY & ORS.

Versus

THE MAMLATDAR & ANR.

Appearance:

Shri Jitendra M. Patel, Advocate, for the
Petitioner (in all matters)

Shri T.H. Sompura, Asst. Govt. Pleader, for
Respondents Nos. 1, 2 and 6 in Special Civil
Application Nos. 5096 of 1984, Respondents Nos. 1,
2 and 4 in Special Civil Applications Nos. 5097
of 1984 and 5099 of 1984, and for Respondents
Nos. 1, 2 and 5 in Special Civil Application No.
5098 of 1984.

Shri M.B. Farooqui, Advocate, for Respondents
Nos. 3, 4 and 5 in Special Civil Application No.
5096 of 1984 and for Respondent No. 3 in Special
Civil Applications Nos. 5097 of 1984 and 5099 of
1984 and for Respondents Nos. 3 and 4 in Special
Civil Application No. 5098 of 1984.

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 03/07/96

ORAL JUDGEMENT

It appears that for a change the petitioner in each case has questioned the legality and validity of one resolution passed by the State Government on 13th March 1981 and the consequential notification issued by the Mamlatdar at Sidhpur (respondent No. 1 in each petition) on 27th September 1984 though the Government Resolution is in its favour. Common questions of law and fact are found arising in all these petitions. I have therefore thought it fit to dispose of all these four petitions by this common judgment of mine.

2. The State Government passed one resolution on 13th May 1981 regarding reservation of the river-bed land to an extent of 25% for the societies having as their members persons belonging to what is popularly known as the backward class. Its copy is at Annexure E to each petition. Pursuant thereto, respondent No. 1 in each case issued one notification on 27th September 1984 for holding the auction for such river-bed land. Its copy is at Annexure F to each petition. The resolution at Annexure E and the notification at Annexure F are challenged in all these petitions.

3. It appears that the resolution at Annexure E to each petition is for modification of the resolution passed by the State Government on 26th December 1979. Learned Assistant Government Pleader Shri Sompura inter alia for the State Government has brought to my notice a copy of one resolution passed on 26th December 1979. It pertains to disposal of the river-bed land in accordance with the guidelines mentioned therein. It has been provided therein that the river-bed land should be disposed of by public auction and by leasing out for not more than for 3 years at a time if it could not be disposed of in any other manner. The only concession in favour of the backward societies was that such societies should be given a 10% concession in the highest bid given in a public auction. The impugned resolution at Annexure E to each petition has modified it by making reservation of

25% of the river-bed land in favour of the societies having membership from persons belonging to the backward class. This is certainly in favour of the co-operative societies like the petitioner in each case. It passes comprehension as to how the petitioner-society in each case has chosen to challenge it by means of each of these petitions. What prompted the society in each case to challenge it is anybody's guess. It appears that the petitioner-society in each case was granted the river-bed land on a lease for a period of 3 years. It appears that what prompted the petitioner-society in each case to challenge the aforesaid resolution at Annexure E to each petition is their desire to cling to the leasehold rights they were granted. I think this cannot be permitted to be done more particularly when the impugned resolution at Annexure E to each petition is in favour of societies like the petitioner-society in each case.

4. In view of my aforesaid discussion, I am of the opinion that the challenge to the resolution at Annexure E to each petition and the consequential notification at Annexure F to each petition is misconceived. It cannot be entertained much less accepted.

5. In the result, each petition fails. Each petition is hereby rejected. Rule issued in each petition is discharged however with no order as to costs. The interim stay in each case is vacated.
